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BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER
ChairmanWILLIAM A. MUNDELL
CommissionerMARC SPITZER
CommissionerMIKE GLEASON
CommissionerKRISTIN K. MAYES
CommissionerRECEIVED
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AZ CORP COMMISSION
DOCUMENT CONTROLIn the Matter of the Application of
Arizona Water Company for an
Extension of its Existing Certificate
Of Convenience and Necessity

Docket No: W-01445A-05-0469

**RESPONSE TO THE ARIZONA CORPORATION COMMISSION STAFF'S
LATE-FILED EXHIBIT**

The City of Eloy ("Eloy") has reviewed the Arizona Corporation Commission ("Commission") Utilities Division Staff's late-filed exhibit. The exhibit accurately identifies Eloy's planning area. Eloy's planning area is the area where Eloy either currently provides service or anticipates providing service in the future. The late-filed exhibit also accurately identifies water companies currently certificated in the planning area.

Eloy has four additional comments about the late-filed exhibit.

First, all the water companies certificated within the current planning area received their certificate prior to the establishment of Eloy's current planning area.

Second, all these companies are on the borders of the planning area.

1 Third, since Eloy expanded its city limits, planning area and the service area of its
2 municipal water company, Eloy has not consented to the creation of new water companies
3 nor the expansion of the existing water companies service areas within Eloy's planning
4 area because Eloy plans to serve the developments within the planning area.

5 Fourth, the Commission will increase the costs to the citizens of Eloy if the
6 Commission grants a certificate to Arizona Water Company ("AWC") to expand its
7 certificated area to include undeveloped property within the Eloy planning area. AWC has
8 taken the position in other Commission proceedings that granting of a CC&N extension
9 creates a vested property right. (See AWC's Response to Staff Legal Memorandum in
10 Docket No. W-01445A-03-0559.) If AWC prevails on its position, Eloy may ultimately
11 have to purchase the CC&N extension rights through eminent domain proceedings. At a
12 minimum, Eloy may have to litigate the issue with AWC. Either way, expanding AWC's
13 certificated area within the Eloy planning are will result in additional costs to Eloy
14 residents.

15 Eloy respectfully requests that the Commission not grant an expansion of a
16 certificated area within Eloy's future service area, particularly in cases like the instant case
17 where there is no immediate need for service in the area at issue and where Eloy is capable
18 of providing timely service.

19 RESPECTFULLY SUBMITTED this 13th day January, 2006.

20 LEWIS AND ROCA

21 

22 Thomas H. Campbell

23 Michael T. Hallam

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26 Attorneys for the City of Eloy

1 ORIGINAL and thirteen (13) copies
2 of the foregoing filed this 13th day of
3 January, 2006, with:

4 Arizona Corporation Commission
5 Docket Control – Utilities Division
6 1200 W. Washington Street
7 Phoenix, Arizona 85007

8 COPY of the foregoing hand-delivered
9 this 12th day of January, 2006, to:

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25 COPY of the foregoing mailed this
26 11th day of January, 2006, to:

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